IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2405 OF 2001

Dr. Mehta Sarosh N.] .. Petitioner

Versus

1. The General Manager, Central Railways, CST, & Ors.] .. Respondents

Mr. Jamshed Mistry i/b Ms. S. Udeshi & Co. for the petitioners.

Mr. A.N. Samant with S.C. Dhawan for the respondent No.1.

Mr. Suresh Kumar for respondent No.2.

Mr. B.A. Desai, Addl. Solicitor General for respondent No.3.

Mr. Pradeep Jadhav for respondent No.4.

Mrs. P.A. Purandare for respondent No.5.

CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED: 22ND FEBRUARY, 2006

P.C. :

. On October 6, 2004, this Court gave following directions:

> "(i) The Railways shall notify an emergency telephone number and shall publicize the same in all compartments, stations and other places. The calls made to the said number

shall be monitored by a special cell situated in the control room which shall be open for 24 hours. The personnel of such cell shall immediately contact nearest Station Master/s at the place of the accident. Such cell shall maintain records of the calls received as well as follow up reports.

(ii) Free parking for an ambulance outside all stations to be provided by Railways and the State Government wherever parking is available.

(iii) The ambulance/taxi should be called by the Station Master or his representative.

(iv) Sanction of funds for (a) Hammals/Porters and (b) Ambulance/taxi for transporting the victim from the accident spot to the hospital and if shifting of victim to the other hospital as required.

(v) Immediate shifting of accident victim to nearest hospital (Private or Government). The list of the ambulance services and the hospital submitted by Mr. J.P. Cama, learned counsel for the petitioner, shall be made available to all the Station Masters.

(vi) Minimum Two light weight folding or collapsible stretches in all Stations and they are to be cleaned after every use. One rechargeable torch on every station, disposable sterilized hand gloves and first aid box at each station.

(vii) Printed format of Memo of reporting accident by Station Master to the Government Railway Police.

(viii) Walkie Talkie in all trains in Central Railway till Train Management System is introduced.

(ix) A Committee consisting of Divisional Medical Officers of each Railway, Dean of Municipal Hospital and Additional Commissioner of Police should monitor that the guidelines are being followed. One doctor nominated by Association of Medical Consultants be also included in the

Committee. Committee will also hear the complaints. The Committee should submit its six monthly report to the General Manager of each Railways. The Committee should meet at least once in two months.

. All concerned persons would be at liberty to file or lodge complaints before the Committee for preventive measures and those complaints shall be looked into by the Committee as expeditiously as possible.

(x) The Railways undertake that in order to prevent accidents, a boundary wall on both sides of the track wherever possible would be erected and existing walls be repaired.

(xi) Fencing in between two platforms shall be carried out as expeditiously as possible.

(xii) Every Station should have foot overbridge. Efforts should be made to keep them clean and free from hawkers and beggars.

(xiii) Platform height should be raised. Wherever necessary, gap between the footboard of the train and platform edge should be checked on the entrance while entering in the Station."

2. As regards plan of action for Station Masters and Government Railway Police, this Court issued the following directions.

"3(i) Helpline number to be displayed in all coaches and all stations.

(ii) On receipt of information about accident, the following action:

(a) If an accident takes place in between the Stations, information to be sent to the Control Room about the accident;

(b) After locating of the accident site, the Control Room should inform to the concerned Station Master and he should make announcement for hammal/porters, GRP and call ambulance/taxi;

(c) As soon as the announcement is heard, hammals and GRP should rush to the Station Manager’s Office, taking the stretcher from the office, go to the accident site by the fastest mode available i.e. By train or by walking to reach the accident site at the earliest.

(d) After lifting the victim, the victim is to be brought by train or through the passing train/ambulance/ taxi to the Station.

(e) Meanwhile, the ambulance/taxi will be kept ready at the Station so that the victim is immediately shifted to the nearest hospital, whether private or government.

(f) Simultaneously care will be taken to stop the bleeding by the trained person of railway/GRP.

(g) All the possible efforts will be made to inform the relatives of victim about the accident immediately by GRP/Station Master.

(h) The complete data of the accident be made available in the control room.

(i) The available data of the accident will be kept before the coordinating Committee to take necessary steps to suggest measures for the improvement and better dealing with the accidents.

(j) Every accident victim should be shifted immediately.

(k) If the name of the victim is known, then the name should be announced on the public announcement

system."

3. Subsequently, on 8th February, 2006, we passed the following order:

> . We perused the Affidavit of Dr. (Mrs.) Mohua Halder, Sr. Divisional Medical Officer, Mumbai Central, Western Railway and the Affidavit of Mr. Arvind Malkhede, Senior Divisional Commercial Manager of the Central Railway Administration in Mumbai. None of these two Affidavits answers and provides for solution regarding treatment to the accident victims in the nearest private hospitals. In the Affidavit filed by Arvind Malkhede, it is stated that all injured persons in railway accidents are given free treatment in Railway Hospitals, but so far as other hospitals are concerned, Railway's liability is restricted to free transportation of the injured persons to the hospital. It is the obligation and the responsibility of the Railways to take the accident victims to the nearest hospital. If the Railways or Government or Municipal hospital is not close by, the accident victims need immediate medical aid and attention at the nearby hospitals.
>
> . We, therefore, direct the Western Railway, as well as, the Central Railway to file Additional Affidavits addressing this aspect and also submit the compliance of the other directives given in the order dated 6th October, 2004.

4. Pursuant to the order dated 8th February, 2006, the Additional Affidavits have been filed on behalf of Western Railway as well as Central Railway.

5. Insofar as Western Railway is concerned it has

reported the compliance thus:

> "5. With reference to direction no.2(i) of the order, it is submitted that an emergency number 23004000 is notified by Western Railway. This number is displayed at all convenient locations on the railway platform like Station Master's office, Booking office, PRS office, Foot over bridges and in the train compartments etc. This number is installed with security control in the centralized control office at Mumbai Central and is monitored round the clock. The number is provided under Caller ID facility to record the caller's identity. Whenever an emergency call is received on this number, the same is advised to nearest Station Master to take necessary action and the overall information is recorded in register provided with security control.
>
> 6. With reference to direction No.2(ii) of the order, it is submitted that the free parking place for ambulance have been provided by the Western Railway at all stations between Churchgate and Virar.
>
> 7. With reference to direction No.2(iii) of the order, it is submitted in case of an accident the injured is admitted to the nearest hospital by quickest means of transport i.e. either by train or ambulance or taxi. A list of nearby hospitals and ambulance services is available with the Station Master and is displayed in GM's office. All injured patients upto Dahisar are being taken to Government hospitals which are at a reasonable distance form the stations. Patients beyond Dahisar are being brought to Bhagwati Hospital by train which is the quickest mode of transport and efforts are made to ensure availability of treatment within the golden hour.
>
> 8. With reference to direction No.2(iv) of the order, it is submitted that the Station Masters are empowered for the payments of Hammals and ambulance/taxi for transporting victim from the accident spot to

the hospital. The payment is made from the Station earning and no difficulty has been faced so far.

9. With reference to direction No.2(v) of the order, it is submitted that a list of nearby hospitals (Private and Government) is available with all Station Masters and it is displayed in SMs Office. However, the list supplied by Shri J.P. Cama, Senior Counsel is being made available to all Station Masters of this Railway.

10. With reference to direction No.2(vi) of the order, it is submitted that minimum two light weight stretchers are provided at each Station and it is cleaned with soap water and disinfected after each use. Also, each Station is provided with one rechargeable torch, disposable sterilized hand gloves and first aid box.

11. With reference to direction No.2(vii) of the order, it is submitted that printed format of memo is provided at each Station for reporting accident by Station Master to GRP.

12. With reference to direction No.2(viii) of the order, the direction given therein pertain to Central Railway. The Western Railway already have a system known as Train Management System.

13. With reference to direction No.2(ix) of the order, it is submitted that the Committee has been formed and is being meeting every two month. First meeting was held on 9.2.2005 at DRM Office, BCT. Second meeting 6.4.2005 SMs Office, Bandra. Third meeting 15.6.2005 DRM Office, CST. Fourth meeting 3.8.2005 SMs Office, Dadar, Central Railway. Fifth meeting 19.10.2005 Station Master’s office, Charni Road, WR. Sixth meeting 21.12.2005, Station Master Office, Grant Road. This six monthly reports submitted to GM.

. I say that Drop Boxes with posters informing the public about the time and place of the meeting asking for suggestions,

complaints had been put up at important stations of Western Railway for meetings which were held at Bandra on 6.4.2005 and Charni Road on 19.10.2005. Centralised announcement to inform the public about the time and place of meeting asking for suggestions/complaints were made before and during the meeting at Grant Road on 21.12.2005. A few suggestions were received in the Complaint Box on 6.4.2005 which were discussed by the Committee.

14. With reference to direction No.2(x) of the order, it is submitted the survey has been completed for entire suburban section on the Western Railway, for construction of boundary walls and work started. Position is as under:

(i) Boundary wall to be constructed as per the Survey carried out by the division. 29/5 Km.

(ii) Target for completion of balance is March, 2009.

So far 3.7 Km boundary wall has been constructed. Repairing of boundary wall is a continuous process.

15. With reference to direction No.2(xii) of the order, fencing in between two tracks, it is submitted that the survey has been completed for entire suburban section and work for providing track divider has been started. Position is as under:

(i) Net requirement for fencing is 2700 RM the survey conducted by the

(ii) Target for completion of balance 1100 RM. June 2007

Fencing between the tracks has been completed at Charni Road and Goregaon Stations. Total of 1000 Route meters has been completed uptil now.

16. With reference to direction No.2(xii) of the order, it is submitted that each and every Station in Mumbai Suburban Section is

having FOB. The Railway makes efforts to keep them clean and free from hawkers.

17. With reference to para 2(xiii) of the direction it is submitted that for all platforms in the Mumbai Suburban Section, the height of the platform with respect to Railway Level is to be kept, as per permissible limit given in Schedule of Dimension and "SOD" i.e. between 76cm to 84cm. The work for raising of platform has already been completed at 11 platforms in last one year. At 04 more Stations, on six place fours are in progress and likely to get completed by June 2006.

18. With reference to para 3 of the direction, it is submitted that helpline No.23004000. Stickers have been affixed in all the rakes. However, these stickers are prone to damage hence SS plates are being fixed in the coach end position. Now it has been suggested that these plates shall be provided near the doorways, near the route map so to have maximum visibility. The plates will now be affixed at doorway location in all the coaches by September, 2006. The helpline no. will be displayed at all Stations by March 2006 in the form of self adhesive papers of size 400mm X 600mm and thickness 0.22mm instead of the currently displayed size of 200mm X 2mm X 5mm. The data maintained in the Control Office is date, time of the accident, approximate age, sex, person killed or injured. The other direction from para 3(ii)(a) to (k) are also being complied.

19. With reference to para 6 of the direction, it is submitted all accident victims are treated as per the direction given in para (a) to (f), treatment facility is extended to all whether or not a ticket or pass is found with them at the time of accident."

6. The Central Railway has filed the Additional Affidavit on 20th February, 2006, and compliance of the

direction is reported thus:

> "**Aspect of taking accident victims to nearest private hospital as directed by the Order dated 8th February 2006:**
>
> The Railway liability in the event of an accident is provided for in Section 123 to 125 of Indian Railway Act, 1989. Railway Claims Tribunal Act, 1987 is enacted to enquire into Accident claims and Railway Accident (Schedule of Compensation) Rules have been framed in 1990. Railway Board by their letter has directed to spend upto Rs.500/- for transportation of victims. Railway Board has further limited by its letter dated 31st August 2004 has described the liability of zonal Railways towards the accident victims. The accident victims are handed over to Police Authorities (Government Railway Police) under control of State Government for further dealing. Zonal Railway Authorities discharge their duties and obligations within the Indian Railway Act, 1989 and the instructions/directions given by the Ministry of Railways and Railway Board. The Railway Board by its letter dated 31st August 2004 issued the under mentioned directions which are in force as on today:

Whether to make Railway hospitals available to treat victims of train accidents, **untoward incidents and other mishaps** in Railway premises.	For victims of the train accident - **YES** For **untoward incidents** and **other mishaps** **At the time of incidence it is** not possible to verify **if the injured persons are as a result of untoward incident or other mishaps hence they should all be** treated at par **as below.** > Emergency first and treatment to be given at our cost. > They are to be transported from the site of accident to **nearest State Govt./Municipality Hospital** at our cost.

Whether to agree to **NO.**

rush injured persons They should be admitted **to nearest** to private hospital **State Govt./Municipality Hospitals.** and incur the expenditure at the cost of Railways ?

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We may also state, that all the facilities that are being asked for cost money, which will involve substantial increase in the fares for the suburban commuters. If this is acceptable we may consider the request, but then we should have an undertaking to increase the fares to fully compensate the costs..."

2. The directions of this Hon'ble Court in Order dated 06th October, 2004 and compliance of Central Railway Administration in that behalf is furnished below: **Directions 2.**

i) **The Railway shall notify an emergency telephone number and shall widely publi--cize the same in all compartments, stations and other public places. The call made to the said number shall be monitored by a special cell situated in the control room, which shall be open for 24 hours. The personnel of such cell shall immediately contact nearest Station Master/s at the place of the accident. Such cell shall maintain records of all the calls received as well as follow up reports.**

Remarks

Telephone No.22620800 installed in RPF Control Room has been widely notified. Publicity has been given by pasting stickers in local trains, a copy whereof is hereto annexed & marked as **Exh-I**. The Cell RPF Control Room is manned by two staff per shift and is working round the clock. Any information received by the cell is immediately transmitted to nearest Station. Records of the call received are being maintained.

Direction:

ii) Free parking for an ambulance outside all stations to be provided by Railways and the State Government wherever parking is available.

Remarks

Free parking facility is available at Chhatrapati Shivaji Terminus, Dadar, Kurla, Thane, Dombivli, Kalyan, Ambernath, Vadala Road and Vashi Stations to Red Swastik Society and these services are utilized by adjacent stations upon request in that behalf.

Direction:

iii)The ambulance / taxi should be called by the Station Master or his representative.

Remarks

Victims are transported by State Police Authorities, Ambulance, taxi or porters are called by Station in-charge on case to case basis as required by State Police.

Directions

iv) Sanction of funds for (a) Hammals/Porters and (b) Ambulance/ taxi for transporting the victim from the accident spot to the hospital and if shifting of victim to the other hospital as required.

Remarks

All concerned station in-charge are authorised to spend upto Rs.500/- for transportation of victim to hospital as per the Railway Boards' direction and provision of clause 2425(37) Indian Railway Commercial Manual.

Direction

v) Immediate shifting of accident victim to nearest hospital (private or Government). The list of the ambulance services and the hospitals submitted by Mr J P Cama,

learned counsel for the Petitioner, shall be made available to all the Station Masters.

Remarks

The victims are taken over by State Government Railway Police authorities to nearest Government hospital. Necessary arrangement for its transportation is made by the Railways.

Direction

vi) Minimum Two light weight folding or collapsible stretchers in all Stations & they are to be cleaned after every use. One rechargeable torch on every station, disposable sterilized hand gloves and first aid box at each station.

Remarks

Provisions are in existence and in use for the last over many years.

Direction

vii) Printed format of Memo of reporting accident by Station Master to the Government Railway Police.

Remarks

Printed format are supplied to all station in-charges for requisite compliance a copy whereof is annexed hereto and marked **Exh-II**

Direction

viii) Walkie Talkie in all trains in Central Railway till Train Management System is introduced.

Remarks

Provision of Walkie Talkie (VHF Set) to Guard and Motorman disturbs passenger safety as within the 5 Km range of VHF set, as there are number of trains at any time as the section has quadruple lines, all VHF sets

within a particular range get activated and causes disturbance to all Motorman/ Guards within the range resulting into loss of their concentration and overshooting the signals thus endangering safety of passengers. However, Central Railway has expedited the work of installation of TMS system and 90% of which is complete.

Direction

ix) A committee of Divisional Medical Officers of each Railway, Dean of Municipal Hospital and Additional Commissioner of Police should monitor that the guidelines are being followed. One doctor nominated by Association of Medical Consulate be also included in the Committee. Committee will also hear the complaints. The Committee should submit its six monthly report to the General Manager of each Railways. The Committee should meet at least once in two months. All concerned persons would be at liberty to file or lodge complaint before Committee for preventive measures and those complaints shall be looked into by the Committee as expeditiously as possible.

Remarks

Committee has been constituted by Hon'ble High Court.

Direction

x) The Railways undertake that in order to prevent accidents, a boundary wall on both sides of the track wherever possible would be erected and existing walls be repaired.

Remarks

Construction of boundary wall and repairs of existing boundary wall is in progress and substantial progress will be made by the end of the year.

Direction

xii) Fencing in between two platforms shall be carried out as expeditiously as possible.

Remarks

Fencing between tracks existed at various places in Mumbai Division. However due to a major accident at Byculla on 22/11/1984 leading to fatal injuries, the Tie-Bar fencing had to be totally removed. Large size drains over 2 feet wide have been constructed to avoid flooding over the track and separate the two tracks. Maintenance of track is monitored by operation of various machines requiring space for operation. Such fencing is a serious hurdle/obstacle in manual maintenance by trackman, Gangman, Sweeper waling over the rails and may become a death trap to them. However, to comply with the direction five stations have been identified where such fencing is proposed to be provided and the total cost of the same is estimated at Rs. 45 lakhs to Railway Board. The feasibility of such proposal through Commercial Publicity is also being examined. Discussion with leading Advertising Agents is in progress in this behalf.

Direction

xii) Every Station should have foot over bridge. Efforts should be made to keep them clean and free from hawkers and beggars.

Remarks

All stations in Mumbai Division of Central Railway are having either Foot Over Bridge of subway for crossing Railway tracks. Necessary announcement urging passengers to use the same is frequently made through Central Announcement system along with other instructions. Appeal is also made through leading News papers. Maximum efforts are taken to keep the FOB free from hawkers and beggars. From April 2005 to December 2005 2733 cases were prosecuted before Magistrates and fine of Rs.24456/- was realized. Though

Section 14 of the Indian Railway Act provides for minimum fine of Rs.1000/- and upto Rs.2000/-, the Magistrate levies fine of Rs.100/- normally, which is easily paid by hawkers.

Direction

xiii) Platform height should be raised. Whenever necessary gap between the footboard of the train and platform edge should be checked on the entrance while entering in the station.

Remarks

All the existing wider gaps between platforms and footboard save and except at five platforms have been attended to and the current gap is within standard dimensions.

Direction

3.

i) Helpline number to be displayed in all coaches and all stations.
ii) On receipt of information about accident the following action:
(a) if the accident takes place in between the Stations, information to be sent to the Control Room about the accident;
(b) After locating of the accident site, the Control Room should inform to the concerned Station Master and he should make announcement for hammal/porters, GRP and call ambulance/taxi;
(c) As soon as the announcement is heard, hammals and GRP should rush to the Station Master's office taking the stretcher from the office, to go to the accident site by the fastest mode availa--ble i.e. by train or by walking to reach the accident site at the earliest;
(d) After lifting the victim, the victim is to be brought by train or through the passing train/ ambulance/ taxi to the station.
(e) Meanwhile, the ambulance/ taxi will be kept ready at Station so that the victim is immediately shifted to the nearest

hospital, whether private or government.

(f) Simultaneously care will be taken to stop the bleeding by the trained person of railway/GRP.

(g) All the possible efforts will be made to inform the relatives of the victims about the accident immediately by GRP/Station Master

(h) The complete data of the accident be made available in the Control Room.

(i) The available data of the accident will be kept before the Coordinating Committee to take necessary steps to suggest measures for the improvement and better dealing with the accidents.

(j) Every accident victim should be shifted immediately.

(k) If the name of the victim is known, then the name should be announced on the Public Announcement System.

Remarks

Action as ordered is being followed. Necessary instructions were given to all Section Incharges. The data of all accident victims is maintained by RPF Control Room and a specimen copy from the Registrar is annexed herewith and marked at **Exh.III**

Direction

4. It is made clear that the Commissioner of Police, Greater Mumbai, shall issue necessary directions to the local Police Stations to cooperate with the Station Masters of Railways in rendering assistance to such Railway accident victim, both by way of physical assistance when necessary and crowd control.

Remarks

This direction is for the State Government Railway Police authorities.

Direction

5. It is made clear that removal of railway accident victim to the hospital for medical

assistance, the requirement of panchanama shall not be a condition precedent. Any private doctor on site may render emergency assistance without being summoned to the Police Station or otherwise for procedural formalities.

Remarks

This direction is for the State Government Railway Police authorities.

Direction

6. This order shall apply to all victims, irrespective of whether or not a ticket or pass is found with them at the time of the accident.

Remarks

All accident victims, irrespective of whether bonafide traveller or not and whether a ticket is found with them at the time of the accident or not, are being attended to and transported to nearest hospital.

Direction

7. The entire purpose of this exercise is that the victim gets immediate medical help within the period of one hour (golden hour) from the point of accident.

Remarks

Deputy Commissioner of Police, State Government, Railway Police, Wadi Bunder has stated that all victims have been transported within less than one hour time.

Direction

8. We direct all concerned authorities to fully cooperate to carry out the aforesaid directions.

Remarks

Railway authorities are fully cooperating in prompt medical help to victims."

7. It appears from both the Affidavits that the injured persons as a result of untoward incident or other mishaps are transported from the site of the accident to the nearest State Government/Municipality hospital at the cost of the Railways. However, it is a fact that many of the Government/Municipality hospitals are at quite a distance from the Railway Stations and transporting the victim to nearest State Government/ Municipality hospital many a time is proved fatal. Obviously, it is the obligation of the Railway authorities (Western Railway, as well as, Central Railway) that accident victims are provided treatment in the cases of emergency in the nearest private hospitals where the Government hospital/Municipality hospital is not within the 5 kilometer radius of the site of the accident. Having given thoughtful consideration to these aspects, we issue the following further direction:

> The emergency treatment to the injured person/s, as a result of untoward incident or other mishaps in Railway premises shall be provided at the cost of Railway authorities in the private hospitals if nearest State Government/Municipality hospitals is/are in

within 5 kilometers of the Railway premises where such incident or mishap had occurred.

8. As regards fencing between the tracks, work seems to have started. We direct that the said work shall be completed within the time frame as set out in the Affidavit dated 22nd February, 2006 filed on behalf of Western Railway and the Affidavit dated 20th February, 2006 filed by the Central Railway.

9. We direct the Railway authorities to comply with directions issued by this Court from time to time in letter and spirit.

10. With the aforesaid orders and directions issued from time to time and compliance thereof by the Railway authorities, we are satisfied that the Writ Petition may be disposed of and we order accordingly.

11. Liberty to the parties to apply for further directions, if necessary.

Sd/-
[R.M. LODHA, J.]

Sd/-
[ANOOP V. MOHTA, J.]

[srpasha@hc]